IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
FRIDAY, THE SECOND DAY OF JULY
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 11126 of 2004

Between:

Sunil Kumar Ahuja, S/o Late K.N. Ahuja,
R/o 502, Surabhi Plaza, 6-2-11/1, Lakdi Ka Pool, Hyderabad.

..... PETITIONER

AND

1.. State of Andhra Pradesh, Rep. by is Secretary, Ministry of Municipal
Administration, Secretariat Buildings, Hyderabad.
2.. Municipal Corporation of Hyderabad, rep. by its Commissioner,
Tank Bund Road,
Hyderabad.

.RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to pass an order to issue a writ, direction or order more paticularly a writ of mandamus declaring the action of the second respondent in refusing to receive the building application of the Petitioner for according permission for construction of a residential flats in premises Municipal No. 8-3-230/B/45/B-46, situated at Venkatagiri, Yousufguda, Hyderabad admeasuring 600 Sq. Yards as illegal, abitrary , amounting to abdication of statutory duty cast upon the second respondent and consequently direct the second respondent to receive the building application,

For the Petitioner:MR.KISHORE RAI – ADVOCATE

For the Respondent No. 1 : G.P.for Municipal Administration

For the Respondent No 2.: MR.RAMA RAO GANTA –Standing counsel

The Court at the stage of admission made the Following :

Heard the learned counsel for the petitioner, the learned Government Pleader for Municipal Administration and the learned standing counsel for the Municipal Corporation of Hyderabad and at their request the matter is taken up for final disposal at the admission stage itself. Issue Rule nisi.

The case of the petitioner is that he is the absolute owner of the house property bearing No.8-3-230/B/455/B-46, admeasuring 600 square yards at Venkatagiri, Yousufguda, Hyderabad, having purchased the same under a registered sale deed dated 22-12-2003 and approached the 2nd respondent for obtaining a building construction permission. It is alleged that the second respondent refused to receive the application of the petitioner on the ground that plans are not accompanied with "No objection certificate" from the office of the Collector, Hyderabad and also a clearance certificate from the Urban Land Ceiling Authority. Hence this writ petition.

It is contended by the learned counsel for the petitioner that the petitioner is the absolute owner of the subject property and the second respondent is not justified in rejecting the application of the petitioner on the ground that the application is not accompanied with a 'No Objection Certificate' by the District Collector and also clearance from the Urban Land Ceiling Authority. It is also contended by the learned counsel for the petitioner that as per the judgment of this Court in **Hyderabad Potteries Vs.District Collector**[1], the Municipal Corporation is not having any right or authority to insist for production of 'No Objection Certificate'.

Sri Ganta Rama Rao, the learned standing counsel for the

respondent Corporation submits that as per the judgment in Hyderabad Potteries's case (1 supra), the petitioner has to produce the entries in the TSLR for the purpose of issuing a building permission and if the petitioner produces such material, the Municipal Corporation has no objection for considering the application of the petitioner for sanction of building permission in accordance with law.

In the above circumstances, without going into the merits of the case, the writ petition is disposed of directing the petitioner to resubmit his application for sanction of building permission to the second respondent along with the entries in TSLR and thereafter the second respondent shall consider and dispose of the petitioner's application for sanction of building permission in accordance with law, in the light of the judgment of this Court in Hyderabad Potteries case (cited supra).

With the above direction, the writ petition is accordingly disposed of. No costs.

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N.V.RAMANA,J

2-7-2004

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To

1.. The Secretary, State of Andhra Pradesh,
Ministry of Municipal Administration,
Secretariat Buildings, Hyderabad.

2.. The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund Road,
Hyderabad.
3.. 2CCs to G.P. for Municipal Administration, High Court buildings,
A.P. Hyd (OUT)
4. . 2CD copies

*Form-NIC-OGS/WP{**AVLR**}*

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[1] 2001(3) ALD 600